



**Substitute Senate Bill No. 999**

**Public Act No. 05-140**

**AN ACT CONCERNING CHANGES TO THE INSURANCE STATUTES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (20) of section 38a-816 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(20) Any violation of [subsection (a) of section 38a-11 and] sections 38a-465 to 38a-465m, inclusive.

Sec. 2. Section 38a-838 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to insolvencies occurring on or after said date*):

The following terms as used in sections 38a-836 to 38a-853, inclusive, unless the context otherwise requires or a different meaning is specifically prescribed, shall have the following meanings:

(1) "Account" means any one of the three accounts created by section 38a-839;

(2) "Affiliate" means any affiliate, as defined in section 38a-1, of an insolvent insurer;

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(3) "Association" means the Connecticut Insurance Guaranty Association created under section 38a-839;

(4) "Commissioner" means the Insurance Commissioner;

(5) "Covered claim" means an unpaid claim, including, but not limited to, one for unearned premiums, which arises out of and is within the coverage and subject to the applicable limits of an insurance policy to which sections 38a-836 to 38a-853, inclusive, apply issued by an insurer, if such insurer becomes an insolvent insurer after October 1, 1971, and (A) the claimant or insured is a resident of this state at the time of the insured event; or (B) the claim is a first party claim for damage to property with a permanent location in this state, provided the term "covered claim" shall not include (i) any claim by or for the benefit of any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; provided that a claim for any such amount, asserted against a person insured under a policy issued by an insurer which has become an insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool or underwriting association, would be a "covered claim" may be filed directly with the receiver of the insolvent insurer but in no event shall any such claim be asserted against the insured of such insolvent insurer, (ii) any claim by or on behalf of an individual who is neither a citizen of the United States nor an alien legally resident in the United States at the time of the insured event, or an entity other than an individual whose principal place of business is not in the United States at the time of the insured event, and it arises out of an accident, occurrence, offense, act, error or omission that takes place outside of the United States, or a loss to property normally located outside of the United States or, if a workers' compensation claim, it arises out of employment outside of the United States, (iii) any claim by or on behalf of a person who is not a resident of this state, other than a claim for compensation or any other benefit which arises out of

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and is within the coverage of a workers' compensation policy, against an insured whose net worth at the time the policy was issued or at any time thereafter exceeded twenty-five million dollars, provided that an insured's net worth for purposes of this section and section 38a-844 shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis, [; or] (iv) any claim by or on behalf of an affiliate of the insolvent insurer at the time the policy was issued or at the time of the insured event, or (v) any claim arising out of a policy issued by an insurer which was not licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred;

(6) "Insolvent insurer" means an insurer (A) (i) licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred, and [(B)] (ii) determined to be insolvent by a court of competent jurisdiction; [, provided the term "insolvent insurer"] (B) which is (i) the legal successor of an insurer that was licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred, by reason of a merger, provided such merger is approved by an insurance regulator having jurisdiction over such merger, and (ii) determined to be insolvent by a court of competent jurisdiction; or (C) which (i) succeeds to the policy obligations of an insurer that was licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred, by reason of a division whereby policies issued by such licensed insurer are transferred to an insurer, and (ii) is determined to be insolvent by a court of competent jurisdiction, provided such division is approved (I) in a jurisdiction that allows such division, and (II) by an insurance regulator having jurisdiction over such division. "Insolvent insurer" shall [(i)] not be construed to mean any insurer with respect to which an order, decree, judgment or finding of insolvency, whether permanent or temporary in nature, or order of rehabilitation or conservation has been issued by a court of competent

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jurisdiction prior to October 1, 1971; [, and (ii) include the legal successor of the insolvent insurer in the event of the merger of the insolvent insurer;]

(7) "Member insurer" means any person who (A) writes any kind of insurance to which sections 38a-836 to 38a-853, inclusive, apply under section 38a-837, including, but not limited to, the exchange of reciprocal or interinsurance contracts, and (B) is licensed to transact insurance in this state. An insurer shall cease to be a member insurer effective on the day following the termination or expiration of its license to transact the kinds of insurance to which said sections 38a-836 to 38a-853, inclusive, apply, however such insurer shall remain liable as a member insurer for any obligations, including obligations for assessments levied prior to the termination or expiration of the insurer's license and for assessments levied after the termination or expiration which relate to any insurer which became an insolvent insurer prior to the termination or expiration of such insurer's license. In the case of such insurer, the average of its net direct written premium for the five calendar years prior to expiration or termination of its license, whether or not the insurer has net direct written premium in the year preceding such expiration or termination, shall be used as its assessment base for any year following such expiration or termination in which the insurer has no direct written premium;

(8) "Net direct written premiums" means direct gross premiums written in this state on insurance policies to which sections 38a-836 to 38a-853, inclusive, apply, less return premiums thereon and dividends paid or credited to policyholders on such direct business, provided the term "net direct written premiums" shall not include premiums on any contract between insurers or reinsurers;

(9) "Person" means an individual, corporation, partnership, association, joint stock company, business trust, limited liability company, unincorporated organization, voluntary organization,

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governmental entity or other legal entity;

(10) "Residence" means, when used in reference to a corporation, its principal place of business;

(11) "United States" has the meaning assigned to it by section 38a-1.

Sec. 3. Section 38a-339 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

[(a)] Each automobile insurance policy providing comprehensive coverage, whether designated as such or included in a policy providing broader coverage, shall provide at the option of the insured complete coverage for repair or replacement of all damaged safety glass without regard to any deductible or minimum amount.

[(b) Each insurer which issues an automobile insurance policy in this state that provides comprehensive coverage shall provide the insured with a written notice of the availability of the coverage described in subsection (a) of this section.]

Approved June 24, 2005